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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,388	05/25/2001	Mary Kay Bitton	212/332	4199

23371 7590 09/25/2003

CROCKETT & CROCKETT  
24012 CALLE DE LA PLATA  
SUITE 400  
LAGUNA HILLS, CA 92653

EXAMINER
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LECHERT JR, STEPHEN J

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/865,388

Applicant(s)

BITTON, MARY KAY

Examin r

Stephen J. Lechert Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. Applicant's election without traverse of Group I in Paper No. 3 is acknowledged.

The restriction requirement is hereby made FINAL.

2. Applicant's amendments have been entered. Applicant's arguments have been fully and carefully considered. Applicant's argument regarding Ayres is found persuasive. Accordingly Ayres is withdrawn from further consideration. However a new reference has been found and will be used in a new ground of rejection under 35 U.S.C. 103 (a) as set forth below.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4 and new claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCook in combination with Conrad.

McCook teaches a method of using a hand held device for imprinting images in soft surfaces, specifically sand. The device can be placed on a child foot or can be hand held for imprinting images in a soft surface or sand.[Note abstract, Figures 10(a-d)]. The device includes raised or protruding indicia printed pads which can imprint various designs into the soft surface or sand as shown in Figures 3 and #A printed

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indicia members (13) can be attached to blocks (12). The indicia pads (13) includes images such as shown in Figure 5, images 60-65 which is a raised or protruding indicia on the pad which can imprint a soft surface or sand.

However, McCook does not teach applicant's detail blades of the imprinting device.

Conrad teaches a dough or cookie cutter having a handle for grasping by the user which has an outer cutting element which cuts the silhouette shape as well as detail blades which extend from a base member that can provide the figure with detail and these blades have a height less than the height of the circumferential silhouette blade.

McCook teaches an imprinting device for soft surfaces such as sand. The imprinting device includes raised indicia pads which imprint a soft surface with indicia which protrudes from the pad thus imprinting the soft surface. Conrad as discussed above teaches cutting a soft surface such as dough with a cutter or die which includes details blades which extend from a base member than can provide the figure with detail and these detail blades have a height less than the height imprinting the silhouette of outer shape of the figure to provides a very detailed image pressed into a soft surface or dough.

It would have been obvious from the combined teachings of McCoy to provide imprinting with a hand held device for imprinting soft surfaces. McCook admittedly does not teach the detail blades when imprinting but generically teaching imprinting a soft surface. The deficiency of providing detail blades to further imprint more details or

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better imaging with a modicum of effort is found in Conrad who teaches imprinting with a die cutter with details blades in a soft surface such as dough thus the combined teachings renders applicant's invention as a whole obvious. With respect to the height of the blades, the distance between the blades, and the thickness of blades as recited by applicant, are deemed to be within the purview of the ordinary artisan when reading Conrad who teaches providing detail blades of different heights from the silhouette blades which provide more detail to the figure. From the figure the blades appear to be spaced apart at certain distances but not specified. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide blades having different thickness, heights and distances apart for providing a desired imprint, to adjust these parameters is an obvious engineering of an existing imprinting or cookie cutter or die cutting device. With respect to applicant's claim to imprinting snow, the McCook reference teaches imprinting soft surfaces which would read on snow or any other soft surface. It is maintained that the references teach applicant's method of imprinting snow or sand and applicant's claims are rendered on the whole obvious to one having ordinary skill in the art at the time the invention was made.

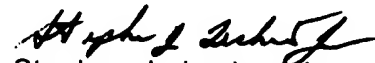
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Lechert Jr. whose telephone number is 703-305-6156. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P Colaianni can be reached on 703-305-5493. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.



Stephen J. Lechert Jr.  
Primary Examiner  
Art Unit 1732